

ASSOCIATED PRESS

14 February 1985

CIA ATTORNEY OPPOSES RELEASE OF DOCUMENTS

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WASHINGTON

- AN ATTORNEY FOR THE CENTRAL INTELLIGENCE AGENCY TOLD A FEDERAL APPEALS COURT TODAY THAT THE MINUTES FROM HIGH-LEVEL STAFF MEETINGS SHOULD NOT BE MADE PUBLIC BECAUSE THAT MIGHT INHIBIT FRANK DISCUSSION.

CIA ATTORNEY JOHN BATES CONTENDED THE MATERIAL WAS PRIVILEGED AND THUS SHOULD NOT BE GIVEN TO CBS INC.; WHICH REQUESTED IT AS PART OF ITS DEFENSE AGAINST A \$120 MILLION LIBEL SUIT.

CBS' 1982 DOCUMENTARY "THE UNCOUNTED ENEMY: A VIETNAM DECEPTION" SAID GEN. WILLIAM WESTMORELAND, WHO COMMANDED U.S. FORCES IN VIETNAM FROM 1964 TO 1968, DELIBERATELY UNDERSTATED COMMUNIST TROOP STRENGTH TO MAINTAIN POLITICAL SUPPORT IN THE UNITED STATES FOR THE WAR.

WESTMORELAND CLAIMS HE WAS LIBELED.

CBS ATTORNEY DAVID BOIES TOLD THE THREE-JUDGE PANEL THAT THE MINUTES WERE NECESSARY TO SHOW THE BASIS UPON WHICH CIA DECISIONS WERE MADE. BOIES ALSO REQUESTED AN ANALYSIS OF INTELLIGENCE GATHERING DURING THE WAR THAT THE CIA COMMISSIONED IN 1982.

THE JUDGES QUESTIONED BATES SHARPLY ON WHY THE REPORT SHOULD BE PROTECTED.

JUDGE ABNER MIKVA ASKED: "WHEN (DOES) SOMETHING STOP BEING THE DELIBERATIVE PROCESS AND START BEING HISTORY?"

BATES SAID THE RELEVANT POINT WAS THAT THE REPORT WAS PRODUCED TO EVALUATE INTELLIGENCE METHODS; ITS USE WAS CURRENT AND PUBLICATION COULD LEAD TO "PUBLIC CRITICISM THAT WOULD DESTROY THE SPIRIT" OF AGENCY DISCUSSION.

CBS ALSO ASKED THAT THE CIA BE FORCED TO RELEASE A CONGRESSIONAL STUDY PREPARED SPECIFICALLY ON THE 1967-68 DISPUTE OVER ENEMY TROOP STRENGTH.

STEVEN ROSS, THE GENERAL COUNSEL TO THE CLERK OF THE HOUSE OF REPRESENTATIVES, SAID THE STUDY WAS MERELY TURNED OVER TO THE CIA FOR SAFEKEEPING BUT THAT IT REMAINED THE PROPERTY OF CONGRESS.

BOIES CLAIMED THAT THE STUDY WAS NECESSARY FOR ITS DEFENSE IN PART BECAUSE OTHER KEY DATA WAS DESTROYED BY THE CIA.

CBS ALSO HAS ASKED THE COURT TO COMPEL FORMER CIA DIRECTOR RICHARD HELMS TO ANSWER QUESTIONS ON VIDEOTAPE.

LAWYERS FOR CBS SAID THEY MAY REST THEIR CASE NEXT WEEK AFTER CORRESPONDENT MIKE WALLACE AND SEVERAL OTHER WITNESSES TAKE THE STAND. THE TRIAL, WHICH IS TAKING PLACE IN NEW YORK, CURRENTLY IS IN A FIVE-DAY RECESS.

WESTMORELAND'S LAWYERS ARE DUE TO COMPLETE THEIR CROSS-EXAMINATION OF A KEY CBS WITNESS, COL. GAINS HAWKINS, WHEN THE TRIAL RESUMES TUESDAY IN U.S. DISTRICT COURT.

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